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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,763	06/18/2001	K. Roger Aoki	16952CON1DIV8DIV3	3611

7590
Stephen Donovan
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612

12/29/2003

EXAMINER

CHISM, BILLY D

ART UNIT	PAPER NUMBER
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1654

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,763

Applicant(s)

AOKI ET AL.

Examiner

B. Dell Chism

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 21-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to Applicants' response filed 14 October 2003. The Examiner acknowledges Applicants' response demonstrating that the previous restriction requirement was made in error on canceled claims 1-20. The present office action is a restriction of pending claims 21-52. The previous restriction requirement is withdrawn and the new restriction requirement for claims 21-52 are as follows.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 21-25, 27-32, 34, 37-38, 43-48, 50 and 52, drawn to method of treating pains associated with muscle disorders of the gastrointestinal, classified in class 424, subclass 247.1.
 - II. Claims 21-26, 38, 42-49 and 52, drawn to method of relieving pains associated with myofacial and Temporomandibular Joint Disorder, classified in class 424, subclass 247.1.
 - III. Claims 21-25, 27, 33, 38, 43-50 and 52, drawn to method of treating pains associated with disorders of the sphincter muscle of the cardiovascular arterioles, classified in class 424, subclass 247.1.
 - IV. Claims 21-25, 27, 35, 38, 43-50 and 52, drawn to method of treating pains associated with disorders of the sphincter muscles of the urinary system, classified in class 424, subclass 247.1.

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- V. Claims 21-25, 27, 36, 38, 43-48, 50 and 52, drawn to method for treating pains associated with disorders of the sphincters of the gall bladder swallowing disorders, classified in class 424, subclass 247.1.
 - VI. Claims 21-25, 38-39 and 43-49, drawn to method of treating thigh pains associated with sports related injuries, classified in class 424, subclass 247.1.
 - VII. Claims 21, 38, 40 and 43-49, drawn to method of treating pain associated with contractures in arthritis, classified in class 424, subclass 247.1.
 - VIII. Claims 21, 38, 41 and 51, drawn to method of treating lower back pains, classified in class 424, subclass 247.1.
2. The inventions are distinct, each from the other because:
3. The methods of Groups I-VIII are directed to different inventions that are not connected in design, operation, and/or effect. These methods are independent since they are not disclosed as capable of use together, they have different modes of operation, they have different functions, and/or they have different effects. One would not have to practice the various methods at the same time to practice just one method alone.

The several inventions above are independent and distinct, each from the other. The search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further, a reference that would anticipate the invention of one group would not necessarily anticipate or even make obvious another group. Finally, the consideration for patentability is different in each case. Thus, it would be an undue burden to examine all of the above inventions in one application.

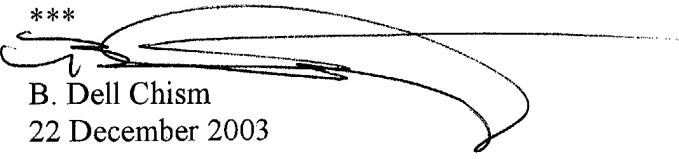
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4. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Dell Chism whose telephone number is 703-306-5815. The examiner can normally be reached on 7:30 AM - 4:30 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on 703-306-3220. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


B. Dell Chism
22 December 2003


CHRISTOPHER R. TATE
PRIMARY EXAMINER